IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,

Case No. 3:18CR727

Plaintiff,

vs.   Judge Jeffrey J. Helmick

John M. Everson,   DEFENDANT'S TRIAL BRIEF

Defendant.

Defendant, through his undersigned counsel, says that he expects that the trial of this case will primarily involve the question of whether the government can meet its burden of proving, beyond a reasonable doubt, the essential element of a violation of 26 U.S.C. §7201 that Defendant acted "willfully."

Defendant's position is that he held a good faith belief regarding his compliance with what the tax laws required of him.

In *Cheek v. United States*, 498 U.S. 192 (1991) the Court held, (at 202):

> In the end, the issue is whether, based on
> all the evidence, the Government has proved
> that the defendant was aware of the duty at
> issue, which cannot be true if the jury
> credits a good-faith misunderstanding and
> belief submission, whether or not the claimed

belief or misunderstanding is objectively
reasonable.

In *U.S. v. Pensyl*, 387 F.3d 456 (6th Cir., 2004) the court

held (at 459):

Actions taken in good faith cannot be
willful. Therefore, if a person honestly,
but incorrectly believes that they are not
obliged to pay income taxes, they are not
guilty of tax evasion because the willfulness
element is not present.

Respectfully submitted,

by \s\Mark C. Geudtner
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<u>CERTIFICATION</u>

I hereby certify that on September 9, 2022, a copy of the foregoing Defendant's Trial Brief was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's ECF system.

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